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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/904,019	07/12/2001	Christophe Laudamiel-Pellet	8354M	1781

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THE PROCTER & GAMBLE COMPANY
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EXAMINER

JASTRZAB, KRISANNE MARIE

ART UNIT PAPER NUMBER

1744

DATE MAILED: 12/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/904,019

Applicant(s)

LAUDAMIEL-PELLET ET AL.

Examiner

Krisanne Jastrzab

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-31, 33 and 35-49 is/are rejected.
- 7) ☒ Claim(s) 32 and 34 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 7/27/2004.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-8, 10-17, 20-31, 33, 35-36 and 42-49 are rejected under 35

U.S.C. 102(b) as being clearly anticipated by Arnell et al., WO 00/12143.

Arnell et al., teach an odor dispensing device and cartridge wherein a reusable, recycleable cartridge is loaded with a plurality of scents and the cartridge is introduced into the device. The device is supplied with locking means to ensure proper placement of the cartridge is maintained during use, while preventing accidental access thereto. Means are provided to keep the odor releasing substance sealed when not in use, and means are provided to remove that seal when the odor is to be released. The cartridges can be interchanged such that the user has the scent selection he/she desires and the unit can be operated as a stand alone unit. See page 2, lines 25-27, page 3, lines 1-10, page 9, lines 5-30, page 10, line 1 through page 13, line 3, page 16, lines 10-29 and page 18, lines 15-20, as well as the drawings.

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Claims 1-8, 10-17, 20-24, 26-27 and 42-49 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Chiao U.S. patent No. 6,602,475 B1.

Chiao teaches a scent storage and playback device including a cartridge containing a plurality of scents to be released as determined by the user, through a scent release device that opens to take in a cartridge and locks to contain that cartridge properly for use. See column 15, lines 25-40, column 18, lines 40-47, column 20, lines 15-50, column 23, lines 1-20, column 24, lines 20-40 and column 25, lines 60-68.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation

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under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Arnell et al., as applied to claims 1-8, 10-17, 20-31, 33, 35-36 and 42-49 above, and further in view of Pendergrass, Jr. U.S. patent No. 5,565,148.

Pendergrass, Jr. teaches the known and expected provision of a blank or empty space within a scent cartridge for use in clearing a scent prior to the release of another or if no scent is desired, but air circulation is. The use of the blank space acts to minimize habituation of the user to a given scent. See column 6, lines 17-26.

It would have been well within the purview of one ordinary skill in the art to employ a blank scent space as taught in Pendergrass, Jr. in the system of Arnell et al., because it's use would act to ensure the minimization of habituation of the user to a given scent.

Claims 18-19 and 37-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arnell et al., as applied to claims 1-8, 10-17, 20-31, 33, 35-36 and 42-49 above, and further in view of the Osmooze ad.

The Osmooze ad clearly teaches the provision of instructions and a sequential listing to the accessible scents to guide the individual user in preparing and applying the scent releasing device for customized personal use.

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It would have been well within the purview of one of ordinary skill in the art to include instructions and fragrance listing for the device of Arnell et al., because it would allow the individual user to prepare and apply the scent releasing device for customized personal use.

Terminal Disclaimer

The terminal disclaimer filed on 10/6/2004 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S. 6, 581,915 B2 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Allowable Subject Matter

Claims 32 and 34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: the closest prior art of record fails to teach or suggest the specific measurement limitations presented in these claims.

Response to Arguments

Applicant's arguments with respect to claims 1-31, 33 and 35-49 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

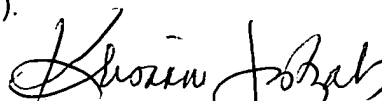
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Krisanne Jastrzab whose telephone number is 571-272-

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1279. The examiner can normally be reached on Mon.-Wed. 6:30am-4:00pm and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J. Warden can be reached on 571-272-1281. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Krisanne Jastrab
Primary Examiner
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December 21, 2004